

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN ROBERT DEMOS, JR,

Plaintiff(s),

v.

CHERYL STRANGE,

Defendant(s).

CASE NO. 3:22-cv-05464-TL-JRC

ORDER ON REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of the Honorable J. Richard Creatura, Chief United States Magistrate Judge (Dkt. No. 7) and Plaintiff John Robert Demos, Jr.'s objections to the Report and Recommendation (Dkt. Nos. 8, 9). Having reviewed the Report and Recommendation, Plaintiff's objections, and the remaining record, the Court OVERRULES Plaintiff's objections, ADOPTS the Report and Recommendation, and DISMISSES the case without prejudice.

A district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C.

1 § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (“[The Court] must determine de novo any part of
2 the magistrate judge’s disposition that has been properly objected to.”). “The district judge may
3 accept, reject, or modify the recommended disposition; receive further evidence; or return the
4 matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3); *accord* 28 U.S.C.
5 § 636(b)(1). A party properly objects when the party files “specific written objections” to the
6 report and recommendation as required under Federal Rule of Civil Procedure 72(b)(2). Plaintiff
7 filed timely objections to the Report and Recommendation.

8 Mr. Demos is under pre-filing bar orders in a number of courts, including this Court, the
9 Eastern District of Washington, the Washington State courts, the Ninth Circuit Court of Appeals,
10 and the United States Supreme Court. *See, e.g., Demos v. Storrie*, 507 U.S. 290, 291 (1993). As a
11 bar order litigant, Mr. Demos may submit only three in forma pauperis (“IFP”) applications and
12 proposed actions each year. *See In re John Robert Demos*, MC91-269-CRD (W.D. Wash. Jan.
13 16, 1992). Nevertheless, the Court returned the original Report and Recommendation in this case
14 to the Magistrate Judge for a determination on imminent danger consistent with *Demos v.*
15 *Holbrook*, 848 F. App’x 779 (9th Cir. 2021) (vacating denial of IFP status and administrative
16 closure of action under a bar order and remanding with instructions to consider the possible
17 application of the imminent danger exception); *see also* 28 U.S.C. § 1915(g) (demonstrating
18 “imminent danger of serious physical injury” allows litigants to obtain IFP status despite a bar
19 order).

20 Plaintiff’s objection takes issue with the bar order against him in this district. *See In re*
21 *John Robert Demos*, MC91-269-CRD, Dkt. 1 (W.D. Wash. Jan. 16, 1992) (1992 Bar Order). For
22 example, while admitting that he has made over 2,000 filings, Plaintiff challenges the 1992 Bar
23 Order for “plac[ing] Demos in a catch-22” since “without the 2,000 plus filings before him to
24 inspect and review, [he] is [un]able to verify that his present claim is not repetitive of a prior

claim.” Dkt. No. 8 at 2; *see also* Dkt. No. 9 at 2 (“According to the 1992 Bar Order Demos is required to remember in his head the details and issues involved in his more than 2,000 plus civil [and] criminal filings and defrentiate [*sic*] and distinguish whether or not the present claim is repetitive of a prior claim. The human brain cannot be taxed with such an impossible task.”). But this is a problem of Plaintiff’s own making. As of October 5, 2022, Plaintiff has brought 58 actions so far in just this calendar year and in this District alone.¹

Of the 58 actions, at least three of those cases appear to raise claims relating to COVID-19, COVID-19 protocols, and the impact on services resulting from COVID-19. *See Demos v. Strange*, No. 3:22-cv-05084 (W.D. Wash. 2022); *Demos v. United States*, No. 3:22-cv-05266 (W.D. Wash. 2022); *Demos v. Strange*, No. 3:22-cv-05463 (W.D. Wash. 2022). One such case is identical to this case, and Plaintiff even filed these identical complaints on the same day. Compare Dkt. No. 1-1 with *Demos v. Strange*, 3:22-cv-05463, Dkt. No. 1-1. All three cases have been dismissed. Further, Plaintiff’s complaint in this case simply lists services that he has been allegedly denied due to the spread of COVID-19 in prison and otherwise makes conclusory statements invoking imminent danger, followed by what appears to be his observations of the state of the country. Dkt. 1-1 at 5, 8, 13, 14. Claims of imminent danger that are speculative and without support are insufficient to avoid a pre-filing bar order. *Andrews v. Cervantes*, 493 F.3d 1047, 1055, 1050 n.11 (9th Cir. 2007).

For the foregoing reasons, the Court ORDERS:

¹ Mr. Demos has filed the following cases in this District just in this year alone: 2:22-cv-00102; 2:22-cv-00103; 2:22-cv-00104; 2:22-cv-00271; 2:22-cv-00272; 2:22-cv-00388; 2:22-cv-00487; 2:22-cv-00488; 2:22-cv-00489; 2:22-cv-00502; 2:22-cv-00507; 2:22-cv-00512; 2:22-cv-00545; 2:22-cv-00546; 2:22-cv-00646; 2:22-cv-00671; 2:22-cv-00723; 2:22-cv-00724; 2:22-cv-00765; 2:22-cv-00766; 2:22-cv-00767; 2:22-cv-00768; 2:22-cv-00769; 2:22-cv-00792; 2:22-cv-00793; 2:22-cv-00794; 2:22-cv-00795; 2:22-cv-00834; 2:22-cv-00835; 2:22-cv-00836; 2:22-cv-00837; 2:22-cv-00838; 2:22-cv-00839; 2:22-cv-00953; 2:22-cv-00954; 2:22-cv-01038; 2:22-cv-01069; 2:22-cv-01385; 2:22-cv-01400; 3:22-cv-05083; 3:22-cv-05084; 3:22-cv-05261; 3:22-cv-05266; 3:22-cv-05267; 3:22-cv-05337; 3:22-cv-05338; 3:22-cv-05342; 3:22-cv-05343; 3:22-cv-05344; 3:22-cv-05345; 3:22-cv-05354; 3:22-cv-05404; 3:22-cv-05428; 3:22-cv-05429; 3:22-cv-05463; 3:22-cv-05464; 3:22-cv-05480; 3:22-cv-05539.

- Dated this 6th day of October 2022.

ORDER ON REPORT AND
RECOMMENDATION - 4